

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

DATE: January 19, 2007

SUBJECT: Reports of Significant Developments and
Activities Ending on January 12, 2007

FROM: Richard C. Karl, Director
Superfund Division

TO: Mary A. Gade
Regional Administrator

Bharat Mathur
Deputy Regional Administrator

The activities listed below are organized by site-specific activities:

SITE-SPECIFIC ACTIVITIES

**Consent Decree Settlement Agreement Signed, Himco Dump
Superfund Site, Elkhart, Indiana**

On December 15, 2006, the Superfund Division Director signed a consent decree (CD) settlement agreement for remedial design/remedial action (RD/RA) at the Himco Dump Superfund site in Elkhart, Indiana. The CD represents a global settlement for the former unlicensed, unlined 60 acre, low-lying marsh landfill, which operated from 1960 to 1976. During the time of operations the landfill accepted medical, pharmaceutical, and industrial wastes, and utilized both open dump and trench disposal. The site was operated by Himco Waste Away Services, Inc. (Himco), and was owned in part by Miles Laboratories, Inc. (Miles Labs), now Bayer Healthcare LLC. Miles Labs generated a minimum of 70 percent of the waste hauled by Himco and disposed of at the site. Each of the remaining Settling Defendants, excluding Himco, generated waste that was hauled by Himco and disposed at the site.

All of the work at the site, estimated to cost \$15,491,442 (past costs and interest, RD/RA, operations & maintenance,

and contingencies) will be performed by Bayer Healthcare LLC and Himco. Performance of the work will be fully guaranteed by Bayer Corporation. Twenty nine generators will pay a total of \$3,875,000 for past federal response costs. The 29 Cashout Defendants are not performing any work under the CD unless the contingent remedial actions are needed. The State of Indiana is a party to the CD. All of the State's past response costs and future response costs will also be paid under the decree. The United States Environmental Protection Agency (U.S. EPA) has final approval authority over all CD work.

Contacts: Gwen Massenburg (312-886-0983)
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Settlement Reached, Alharma Inc., Chicago Heights, Illinois

On December 20, 2006, the U.S. EPA filed a joint Administrative Complaint and Consent Agreement and Final Order resolving alleged Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 103 violation at Alharma Inc., Chicago Heights, Illinois. Alharma Inc. failed to immediately notify the National Response Center (NRC) of a 13,277 pound release of sulfuric acid that occurred on October 31, 2005, at 9:00 a.m. Sulfuric acid is a hazardous substance under CERCLA with a reportable quantity of 1,000 pounds. This release was more than 13 times the reportable quantity. The person in charge of the facility notified the NRC on October 31, 2005, at 3:58 p.m. or 6 hours and 58 minutes after the release was discovered. As part of the settlement, Alharma Inc. will pay a \$5,000 cash penalty and they agreed to purchase and install a remote monitoring system for the sulfuric acid tank and replace the sulfuric acid piping with 20 alloy stainless steel piping. The value of these projects is \$24,737. Alharma Inc. will have 30 days to pay the \$5,000 penalty and 25 weeks to complete the Supplemental Environmental Projects.

Contact: James Entzminger (312-886-4062)

Settlement Reached, The Penray Companies, Inc., Wheeling, Illinois

On December 28, 2006, Chemical Emergency Preparedness and Prevention Section (CEPPS) filed a joint Administrative

Complaint and Consent Agreement and Final Order (CAFO) against The Penray Companies Inc. in Wheeling, Illinois. The CAFO alleges violations of the Clean Air Act, Risk Management Program regulations, 40 CFR Part 68. The Penray Companies, Inc., failed to timely submit and register their plan and failed to adequately implement their program. The Penray Companies, Inc. is a Program Level 3 facility that mixes, fills, and packs liquid and aerosol chemical products containing a flammable mixture. The Penray Companies, Inc. has agreed to pay a cash penalty of \$8,500.

Contact: Monika Chrzaszcz (312-886-0181)

Complaint Filed, Conserv FS, Inc., Kansasville, Wisconsin

On January 10, 2007, U.S. EPA filed a Complaint against Conserv FS, Inc., for violations of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA) reporting requirements. The Complaint alleged that Conserv failed to immediately notify the National Response Center, the Wisconsin State Emergency Response Commission (SERC) and the Racine Local Emergency Planning Committee (LEPC) of a release of 1,055 pounds of ammonia which occurred from their facility on October 11, 2004. The release was reported to the National Response Center (NRC), the Wisconsin SERC, and the Racine LEPC more than 17 hours after the release began. Anhydrous ammonia is a CERCLA hazardous substance and an EPCRA extremely hazardous substance with a 100 pound reportable quantity. Conserv also failed to submit a written follow-up report to the SERC as soon as practicable after the release. The release was discovered by a truck driver when he arrived at the facility after hours to pick up the trailer. The local fire department was notified and mitigated the release. The Agency proposes an \$80,596 penalty. Conserv has 30 days to respond.

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cc: Susan Bodine (OSWER)
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Region 5 State Superfund Coordinators
Division/Office Directors
ORA State Coordinators
Regional Team Managers